

5160-3-08**Criteria for nursing facility-based level of care for an adult.**

(A) This rule describes the criteria for an adult to be determined to have a nursing facility-based level of care. A nursing facility-based level of care includes the intermediate and skilled levels of care. The criteria as described in this rule applies to an adult on medicaid fee-for-service or medicaid managed care.

(B) An adult will be determined to have an intermediate level of care when a qualified assessor, as defined in rule 5160-3-05 of the Administrative Code, completes an ODM 10125 "Adult Comprehensive Assessment Tool" (2/2018) or an ODM 10127 "Adult Level of Care Questionnaire" (2/2018) and determines that all of the following are met:

(1) That the adult has a protective level of care in accordance with rule 5160-3-06 of the Administrative Code.

(2) That the adult has a need for a minimum of one of the following:

(a) Assistance with the completion of a minimum of two activities of daily living (ADL), as described in paragraph (C) of this rule;

(b) Assistance with the completion of a minimum of one ADL, and assistance with medication self-administration;

(c) A minimum of one skilled nursing service or skilled rehabilitation service;
or

(d) Twenty-four hour support in order to prevent harm due to a cognitive impairment, as diagnosed by a physician or other licensed health professional acting within his or her applicable scope of practice, as defined by law, and as determined by an Ohio department of medicaid (ODM) approved assessment instrument.

(3) That for an adult who meets the criteria described in paragraphs (B)(1) and (B)(2) of this rule, and has a developmental disability as defined in section 5126.01 of the Revised Code, that the adult is likely to require lifelong assistance with ADLs due to the adult's physical limitation.

(C) For the purposes of meeting the criteria described in paragraph (B)(2) of this rule, an adult has a need in an ADL when:

(1) The adult requires assistance with bathing in at least one of the following three components:

(a) Applying cleansing agent;

(b) Rinsing; or

(c) Drying.

(2) The adult requires assistance with dressing in at least one of the following two components:

(a) Putting on and taking off an item of clothing or prosthesis; or

(b) Fastening and unfastening an item of clothing or prosthesis.

(3) The adult requires assistance with eating in at least one of the following three components:

(a) Getting food into the mouth;

(b) Chewing; or

(c) Swallowing.

(4) The adult requires assistance with grooming in all of the following three components:

(a) Hair care, including:

(i) Washing one's hair; or

(ii) Brushing or combing one's hair.

(b) Nail care, including:

(i) Cutting fingernails; or

(ii) Cutting toenails.

(c) Oral hygiene.

(5) The adult requires assistance with mobility in at least one of the following three components:

(a) Bed mobility;

(b) Locomotion; or

(c) Transfers inside the house.

- (6) The adult requires assistance with toileting in at least one of the following four components:
- (a) Using a toilet, bedpan, or urinal;
 - (b) Changing incontinence supplies or feminine hygiene products;
 - (c) Cleansing self; or
 - (d) Managing an ostomy or catheter.
- (D) An adult will be determined to have a skilled level of care when a qualified assessor completes an ODM 10125 or an ODM 10127 and first determines that the adult has an intermediate level of care in accordance with paragraph (B) of this rule and:
- (1) The adult requires a minimum of one of the following:
 - (a) One skilled nursing service as defined in paragraph (B)(31) of rule 5160-3-05 of the Administrative Code within the day on no less than seven days per week; or
 - (b) One skilled rehabilitation service as defined in paragraph (B)(32) of rule 5160-3-05 of the Administrative Code within the day on no less than five days per week.
 - (2) The adult has an unstable medical condition as defined in paragraph (B)(35) of rule 5160-3-05 of the Administrative Code.
- (E) When an adult has a skilled level of care as described in paragraph (D) of this rule, the adult may request placement in an intermediate care facility for individuals with intellectual disabilities (ICF-IID) that provides services to individuals who have a skilled level of care. When an adult with a skilled level of care requests placement in an ICF-IID, the following apply:
- (1) The adult may be determined to have a developmental disabilities level of care as described in rule 5123:2-8-01 of the Administrative Code; and
 - (2) The ICF-IID must provide written certification that the services provided in the facility are appropriate to meet the needs of an adult who meets the criteria for a skilled level of care.
- (F) When an adult who has a developmental disability is being re-assessed for continued enrollment in a nursing facility-based medicaid waiver program in accordance with rules 5160-46-02, 5160-58-02.2, 5160-31-03, and 5160-33-03 of the Administrative

Code, the adult will be determined to have an intermediate level of care when the adult meets at least the criteria described in paragraphs (B)(1) and (B)(2) of this rule. This provision applies only during a re-assessment for continued waiver program eligibility.

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